



**NORTH CAROLINA BOARD OF DIETETICS/NUTRITION**  
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## GUIDELINE A

### FOR UNLICENSED PERSONS WHO ARE NOT OTHERWISE EXEMPT

The North Carolina Board of Dietetics/Nutrition (the “Board”) has created this guideline for the purpose of providing unlicensed persons with a summary of, and additional information regarding, the North Carolina Dietetics/Nutrition Practice Act.<sup>1</sup>

#### **OVERVIEW OF NORTH CAROLINA’S LICENSURE LAW**

The Dietetics/Nutrition Practice Act was enacted in 1991 to “safeguard the public health, safety and welfare and to protect the public from being harmed by unqualified persons by providing for the licensure and regulation of persons engaged in the practice of dietetics/nutrition and by establishing educational standards for those persons.” G.S. § 90-351. Consistent with this purpose, an individual must obtain a license before he or she may legally (1) hold himself or herself out as a dietitian/nutritionist or (2) engage in the practice of dietetics/nutrition.

As discussed in greater detail below, one does not engage in the practice of dietetics/nutrition unless that person provides certain nutrition-related services in the context of a professional-client relationship. It is neither the purpose of the Dietetics/Nutrition Practice Act nor the intent of the Board to restrict the expression of general information, guidance or encouragement about food, lifestyle or dietary practices, whether through general publication—including books, television, radio, articles or website posts—or in one-on-one interactions. Thus, individuals are permitted to express information, guidance or encouragement about food, lifestyle or dietary practices to the public generally and to any willing and competent adult listener directly without first obtaining a license so long as they do not hold themselves out as a dietitian/nutritionist and they do not provide such information, guidance or encouragement (for free or for compensation) as part of a professional-client relationship formed to assess individual nutritional needs and then develop and achieve a specific nutrition-related goal, objective or outcome.

#### **ACTIVITIES REQUIRING A LICENSE**

**Pursuant to the Dietetics/Nutrition Practice Act, a license is required to “engage in the practice of dietetics/nutrition” in North Carolina.** G.S. § 90-365. “Dietetics/nutrition means the integration and application of principles derived from the science of nutrition, biochemistry, physiology, food and management and from behavioral and social sciences to achieve and maintain a healthy status. **The primary function of dietetic/nutrition practice is the provision of nutrition care services.**” G.S. § 90-352 (emphasis added).

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<sup>1</sup> For purposes of this guideline, the term “unlicensed persons” refers to all persons not licensed under the North Carolina Dietetics/Nutrition Practice Act who are not otherwise exempt from the Act’s licensure requirements.

**General Statute § 90-352 defines “nutrition care services” as any, part or all of the following:**

- a. Assessing the nutritional needs of individuals and groups, and determining resources and constraints in the practice setting;
- b. Establishing priorities, goals and objectives that meet nutritional needs and are consistent with available resources and constraints;
- c. Providing nutrition counseling in health and disease;
- d. Developing, implementing and managing nutrition care systems; and
- e. Evaluating, making changes in and maintaining appropriate standards of quality in food and nutrition services.

**Nutrition assessment and nutrition counseling are defined in the North Carolina Administrative Code (the “Rules”).** The Rules define “**nutrition assessment**” as “the evaluation of the nutrition needs of individuals and groups based upon biochemical, anthropometric, physical and food intake and diet history data to determine nutritional needs and recommend appropriate nutrition intake including enteral and parenteral nutrition.” “**Nutrition counseling**” is defined as “the advice and assistance provided by licensed dietitians/nutritionist to individuals or groups on nutrition intake by integrating information from the nutrition assessment with information on food and other sources of nutrient and meal preparation consistent with cultural background, socioeconomic status and therapeutic needs.” Certain software, computer programs and websites purport to be capable of assessing and analyzing an individual’s diet based on data or information provided by the user. An individual who provides “nutrition care services”—including a “nutrition assessment”—to another individual or group without first obtaining a license (or coming under an exemption) would be in violation of the Dietetics/Nutrition Practice Act regardless of whether that individual uses such software, programs, websites or other technology when providing these services.

**The Dietetics/Nutrition Practice Act further provides that a license is required to do any of the following:**

- Use the title “dietitian/nutritionist”;
- Use the words “dietitian,” “nutritionist” or “licensed dietitian/nutritionist” alone or in combination to describe himself or herself;
- Use the letters “LD,” “LN,” “LDN” or any facsimile or combination in any words, letters, abbreviations or insignia to describe himself or herself; or
- To imply orally or in writing or indicate in any way that the person is a licensed dietitian/nutritionist.

G.S. § 90-365. The terms “Nutrition Counselor,” “Nutrition Consultant,” “Sports Nutritionist” and like terms tend to indicate that a person is practicing dietetics/nutrition and imply that a person is a licensed dietitian/nutritionist. Similarly, advertising or offering to provide nutritional services described by the terms “Nutrition Assessment,” “Nutrition Counseling,” “Nutrition Consultations” and like terms indicates that a person is practicing dietetics/nutrition and implies that a person is a licensed dietitian/nutritionist. These terms should not be utilized by unlicensed persons to describe themselves or services they offer.

## INTERPRETIVE GUIDANCE ON SCOPE OF PRACTICE OF DIETETICS/NUTRITION

While a license is required to provide nutrition care services as defined in the Dietetics/Nutrition Practice Act and the Rules, it is neither the purpose of the Dietetics/Nutrition Practice Act nor the intent of the Board to restrict the expression of general information, guidance or encouragement about food, lifestyle or dietary practices, whether through general publication or in one-on-one interactions. By way of example, a license is not required for any of the following:

- Demonstrating how to cook food;
- Sharing information regarding personal experience with dietary and nutritional choices;
- Providing information addressing the recommended amounts of essential nutrients;
- Providing information on healthy eating and healthy snacks;
- Discussing carbohydrates, proteins, fats, vitamins, minerals and water as essential nutrients required by the body;
- Providing statistical, scientific information regarding the correlation between chronic disease and the excesses or deficiencies of certain nutrients; and
- Providing non-fraudulent information about nutrients contained in foods or supplements.

In short, individuals are typically permitted—either for free or for compensation—to express information, guidance or encouragement about food, lifestyle or dietary practices to the public generally and directly to any willing and competent adult listener without first obtaining a license. The Board considers these activities to be the practice of dietetics/nutrition requiring a license pursuant to the Dietetics/Nutrition Act only where (1) there is some additional indication that the person is holding himself or herself out as a licensed dietitian or nutritionist **or** (2) the activities occur in the context of a professional-client relationship, meaning the person takes the nutritional affairs of an individual or group personally in hand and purports to exercise judgment on behalf of that individual or group in light of that individual's or group's particular needs and circumstances.

The determination of whether someone has engaged in the practice of dietetics/nutrition under these criteria will depend on the facts of a particular case. The Board typically considers the following non-exclusive factors in making this determination:

- whether the person has disclaimed his or her lack of credentials or licensure in a manner consistent with the disclaimer discussed below;
- whether the person has held himself or herself out as having an advanced level of expertise, education or training on matters of dietetics/nutrition;
- whether the person's information, guidance or encouragement has been tailored to the recipient based on his or her individual needs or circumstances;

- any relationship between the person and the recipient of information, guidance or encouragement prior to the receipt of such services;
- whether the person charges or receives a fee or other consideration for the providing of information, guidance or encouragement;
- which party (*i.e.*, the person providing or the person receiving information, guidance or encouragement) sought out the relationship;
- whether the person provided information, guidance or encouragement to achieve a specific outcome, goal or objective that he or she played a role in developing or establishing for the recipient of such services;
- whether the information, guidance or encouragement is based on historical or methodological studies or research conducted by experts in the field and/or on scientific studies published in peer-reviewed medical or nutritional journals or publications;
- whether the information, guidance or encouragement is offered to a healthy population or to individuals with medical conditions, such as diabetes, hypertension or heart disease;
- the circumstances surrounding the interaction (*e.g.*, whether the interaction was in person, whether the interaction took place in a formal or office setting and whether the interaction was one way—like a book, article or blog entry—or two way—like a conversation); and
- whether there is a potential for North Carolina citizens to be harmed by the person’s activities.

None of these factors is dispositive, however, and the Board’s case-by-case determination is always guided by the overarching purpose of the Dietetics/Nutrition Practice Act, which is “to safeguard the public health, safety, and welfare and to protect the public from being harmed by unqualified persons by providing for the licensure and regulation of persons engaged in the practice of dietetics/nutrition . . . .” G.S. § 90-351.

Consistent with this purpose, a non-licensed person whose activities are limited to expressing information, guidance, opinions, or encouragement about food, lifestyle or dietary practices has **not** engaged in the practice of dietetics/nutrition where:

- such expression is directed to the public generally—such as through publications, websites, and other audio-visual media; or
- such expression is directed to particular individuals or groups outside of the context of a professional-client relationship (as defined on page 3 above) and the non-licensed person provides a disclosure sufficient to inform his or her audience that the person is not a licensed dietitian/nutritionist and does not claim to possess the education, training and experience required to become a licensed dietitian/nutritionist.

## FITNESS AND NUTRITION CERTIFICATES

The requirements for licensure are statutorily defined. One must apply and meet the general requirements provided in G.S. § 90-357 and 21 NCAC 17.0104 in order to be granted a license to practice dietetics/nutrition in North Carolina. However, many organizations market nutrition certifications and the opportunity for fitness professionals, health coaches and like persons to improve their nutrition knowledge through earning certificates/certification, online diplomas or taking nutrition courses. Many of these programs advise applicants to review their state laws to determine what nutrition services can legally be offered. Under the Dietetics/Nutrition Practice Act, in order to practice dietetics/nutrition in North Carolina, one must be licensed unless otherwise exempt. A certificate or diploma, standing alone, is not enough to authorize a person to practice dietetics/nutrition in North Carolina. Therefore, upon obtaining a certification or diploma, one will not be able to provide nutrition care services or use any title indicating that one is practicing dietetics/nutrition, unless licensed or otherwise exempt from licensure.

## ADDITIONAL GUIDANCE

For individuals who are unsure whether their intended or ongoing activities constitute the practice of dietetics/nutrition, the Board will provide additional guidance upon request.

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*This document has been reviewed and approved by the North Carolina Board of Dietetics/Nutrition for use as a guideline only. It is provided to help unlicensed persons better understand the North Carolina Dietetics/Nutrition Practice Act. It is not all inclusive or exclusive. This guideline is provided as information only and is not intended to address any specific case scenario. The Board is required to investigate all complaints reported to it, and all such complaints will be reviewed on a case-by-case basis taking into account the particular facts of the situation. This document should not be construed to impose any requirements or limitations on unlicensed persons in addition to those set forth in the Act and Rules. Similarly, this document in no way enlarges the Board's civil liability, and alleged violations of the guidance set forth in this document shall not be considered in any proceeding against the Board. In the event of a conflict between this document and the North Carolina Dietetics/Nutrition Practice Act and associated Rules, the Act and Rules will govern.*

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